Local Government Mandate Statement Kentucky Legislative Research Commission 2019 Regular Session

Part I: Measure Information

Bill Request #: 949
Bill #: HB 5 HCS
Document ID #: 4605
Bill Subject/Title: AN ACT relating to the human rights of unborn children to not be discriminated against and declaring an emergency.
Sponsor: Representative Melinda Prunty
Unit of Government: X City X County X Urban-County Unified Local X Charter County X Consolidated Local X Government
Office(s) Impacted: police, jails
Requirement: X Mandatory Optional
Effect on Powers & Duties: X Modifies Existing Adds New Eliminates Existing

Part II: Bill Provisions and the Estimated Fiscal Impact Relating to Local Government

HB 5 HCS would create a new section and amend other sections of KRS 311.710 to 311.820 to prohibit a person intentionally performing or inducing an abortion if the person knows the pregnant woman is seeking the abortion, in whole or in part, because of the sex, race, color, or national origin of the child, or because of the diagnosis of Down syndrome or other disability of the unborn child. The bill would amend KRS 311.990 to establish that violation of the prohibition by anyone other than the pregnant woman would be a Class D felony.

The fiscal impact of HB 5 HCS on local governments would be minimal. While the creation of a new felony suggests some impact on local law enforcement and jail facilities, the likelihood of criminal prosecution and incarceration under the new felonies is small. The Administrative Office of the Courts reports that from January 1, 2017 to December 31, 2018 there were **no** criminal prosecutions and **no** incarcerations for violations of current abortion laws in KRS 311.723 - 311.787, which include requirements similar to those in HB 5 HCS.

HB 5 HCS would result in a minimum number of additional Class D felony arrests and incarcerations. When a court denies bail to a Class D felony defendant, the local government is responsible for incarcerating the defendant until disposition of the case in one of Kentucky's 76 full service jails or four life safety jails. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an estimated average of \$31.34 per day, which equals the per diem and medical expenses that the Department of Corrections pays jails to house felony offenders. Upon sentencing, a Class D felon is housed in one of Kentucky's full service jails for the duration of his or her sentence. The Department of Corrections pays local jails \$31.34 per day to house a Class D felon. Since the per diem pays for the estimated average cost of housing a Class D felon, the per diem may be less than, equal to, or greater than the actual housing cost.

Part III: Differences to Local Government Mandate Statement from Prior Versions

HB 5 HCS makes only one technical change to the bill as introduced. At Section 4 (22) the House Committee Substitute replaces "[e]xcept as provided in subsection (6) of Section 1 of this Act" with "subsection (7)."

Data Source(s): Department of Corrections; LRC Staff

Preparer: Mary Stephens **Reviewer:** KHC **Date:** 2/21/19